

MANDATE

S.D.N.Y. – N.Y.C.
19-cv-4355
Marrero, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 29th day of October, two thousand twenty-four.

Present:

Amalya L. Kearse,
Richard J. Sullivan,
Beth Robinson,
Circuit Judges.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: **10/29/2024** _____

Veronica Kontilai,

Petitioner,

v.

24-721

United States Securities and Exchange Commission,

Respondent.

Petitioner requests, under 28 U.S.C. § 1292(b) and/or Federal Rule of Appellate Procedure 5, leave to appeal two interlocutory orders of the district court. Upon due consideration, it is hereby ORDERED that the petition is DENIED and this proceeding is dismissed. First, § 1292(b) does not apply because Petitioner has not first obtained certification from the district court, as required by that statute. *See Murphy v. Reid*, 332 F.3d 82, 83 (2d Cir. 2003); *Shelter Realty Corp. v. Allied Maint. Corp.*, 574 F.2d 656, 659 (2d Cir. 1978). Second, Rule 5, by itself, does not provide an independent basis for appellate jurisdiction, but merely describes the procedures that apply when another rule or statute permits a discretionary appeal. *See Fed. R. App. P. 5(a)(2), (b)(1)(D).* Third, the orders Petitioner seeks to appeal are nonfinal under 28 U.S.C. § 1291, and there is no other basis for immediate appeal. *See Petrello v. White*, 533 F.3d 110, 113 (2d Cir. 2008); *United States v. Culbertson*, 598 F.3d 40, 45–46 (2d Cir. 2010).

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

Catherine O'Hagan Wolfe




MANDATE ISSUED ON 10/29/2024